

Docket No.: ACONT.0101C1

Patent

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of: Tuck et al.

Serial No.: 08/516,646

Filed: August 18, 1995

Group Art Unit: 2741

Examiner: Joseph Thomas

For: Apparatus and Method for Trading Electric Energy

**FAX RECEIVED**  
**FEB 24 1999**  
**Group 2700****OFFICIAL****DECLARATION OF CHUCK VICE**

1. My name is Chuck Vice and I am the Vice President of Continental Power the owner of the above-identified application.
2. I have been employed by Continental Power since July 1994 and have been involved with the development and marketing of the company's electrical energy trading system also referred to as "CPEX". CPEX is the subject of the above identified patent application.
3. The CPEX system has achieved significant commercial success as evidenced by the earlier-submitted affidavit of Brent Comstock.
4. Since the inception of CPEX, our advertising expenditure has averaged less than 1% of our total operating budget. In other words, the success we have experienced has been due to the quality and convenience of CPEX rather than the strength or cleverness of our advertising.
5. Very few of the subscribers to CPEX have any other relationship to Continental Power or its parent company Mid-American Energy. Indeed, more than 95% of the subscribers are competitors of Mid-American Energy.
6. The CPEX system has been used to consummate many thousands of transactions in which electrical energy units have been sold to both near and distant buyers. We have facilitated transactions in excess of 1500 miles on several occasions. Such distant transactions require the involvement of several intermediate wheelers.
7. As discussed in the Background section of the application, trades have occurred between adjacent utilities. This typically involved picking up the phone and calling to determine if the adjacent utility had any excess electrical capacity to sell. This sort of rudimentary verbal query

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system would never accommodate the long-distance, multiple-intermediary transactions that CPEX facilitates.

8. CPEX is commercially successful because it allows us to facilitate the trading of electrical energy units in a data processing system wherein we receive an offer to buy a quantity of units as well as an offer to sell a quantity of units. CPEX stores a list of transaction conditions wherein said list comprises (i) a parameter associated with a quantity of units that can be physically delivered wherein said parameter is a limit on an electrical energy unit transmission capacity; and (ii) a parameter associated with a contractual agreement between at least one or more buyer and seller participants. Finally CPEX facilitates a trade transaction for units of electrical energy if transaction conditions are satisfied.

9. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under § 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

10. Further Declarant sayeth not.

By: Chuck A. Vice  
Chuck Vice, Vice President

Date: 2/23/99